

REMARKS

Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow. In this response, Applicants have amended claim 6 and cancelled claim 18 without prejudice or disclaimer. Following entry of these amendments claims 1-17 are pending in the application. Claims 1-5 and 11-16 have been withdrawn from consideration as being drawn to non-elected subject matter. Thus, Claims 6-10 and 17 are currently pending an under consideration.

Rejections Under 35 USC § 112

Claim 18 has been rejected under 35 USC § 112 as allegedly containing subject matter which was not described in the specification in such way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. In this response, Applicants have cancelled claim 18, thereby rendering the rejection under §112 moot.

Rejections of Claims Under 35 USC § 102

Claims 6, 17 and 18 have been rejected under 35 USC § 102(b) as being anticipated by Fujitani. Applicants respectfully traverse this rejection for the reasons set forth below.

In the Office Action, the PTO has suggested that Fujitani discloses a vessel for accommodating metal hydrides that comprises two concentric containers, one of the containers hereinafter called inner container 4 (see figures 1B and 1C; constitution lines 2 and 3) being located within the other one which is hereinafter called outer cylinder 1 (see figures 1b and 1c; constitution lines 8 and 9), the containers being separated by an insulating sleeve 8 (see figures 1b and 1c; constitution lines 9 and 10) for maintaining the inner container at low temperature, the inner container being used for storing hydrogen in a liquid form, the outer container being in communication with the inner container and containing a metal hydride 7 (see figures 1b and 1c) for storing hydrogen in a solid form.

In this response, Applicants have amended claim 6 to recite that the outer container is “in fluid communication with the inner container”. In this regard, the Applicant submits that

Fujitani does not disclose a tank being used for storing hydrogen in a liquid form. Fujitani's disclosure does not fairly teach a person having ordinary skill in the art to use any of the containers described therein to store hydrogen in liquid form. Notably, later-issued U.S. Patent No. 5,728,843, issuing to the same assignee and also having Fujitani as a named inventor, teaches a person having ordinary skill in the art to use separate and structurally distinct tanks for containing hydrogen in liquid and solid form. Because claim 6 specifically recites a tank having an inner container "being used for storing hydrogen in a liquid form" and an outer container "containing a metal hydride for storing hydrogen in solid form", the Applicant submits that the invention as claimed in claim 6 is patentably distinguishable over Fujitani on this basis as well.

Further, the Applicant submits that Fujitani does not disclose the combination of elements claimed in claim 6. In particular, the Applicant submits that the structure in Fujitani being described by the PTO as being the "outer container" does not contain any metal hydrides. Rather, the structure in Fujitani being described by the PTO as being the "inner container" is, in fact, a structure which contains metal hydrides. Because the invention as claimed in claim 6 recites an outer container "containing a metal hydride for storing hydrogen in a solid form", the Applicant submits that the invention as claimed in claim 6 is patentably distinguishable over Fujitani.

Rejections Under 35 U.S.C. §103

Claims 7 and 8 have been rejected under 35 U.S.C. §103 as being unpatentable over Fujitani in view of U.S. Patent 4,457,136 to Nishizaki *et al.* (hereafter "Nishizaki"). In addition, claims 9 and 10 have been rejected under 35 U.S.C. §103 as being unpatentable over Fujitani in view of Shintaro *et al.*, Hydrogen Energy System Vol. 19, No. 2 (hereafter "Shintaro"). Applicants respectfully traverse these rejections for the following reasons.

As discussed above, Applicants have amended claim 6 to recite that the outer container is "in fluid communication with the inner container". In this regard, the Applicant submits that Fujitani does not disclose a tank being used for storing hydrogen in a liquid form. Fujitani's disclosure does not fairly teach a person having ordinary skill in the art to

use any of the containers described therein to store hydrogen in liquid form. Notably, later-issued U.S. Patent No. 5,728,843, issuing to the same assignee and also having Fujitani as a named inventor, teaches a person having ordinary skill in the art to use separate and structurally distinct tanks for containing hydrogen in liquid and solid form. Because claim 6 specifically recites a tank having an inner container “being used for storing hydrogen in a liquid form” and an outer container “containing a metal hydride for storing hydrogen in solid form”, the Applicant submits that the invention as claimed in claim 6 is patentably distinguishable over Fujitani on this basis as well.

Further, the Applicant submits that Fujitani does not disclose the combination of elements claimed in claim 6. In particular, the Applicant submits that the structure in Fujitani being described by the PTO as being the “outer container” does not contain any metal hydrides. Rather, the structure in Fujitani being described by the PTO as being the “inner container” is, in fact, a structure which contains metal hydrides. Because the invention as claimed in claim 6 recites an outer container “containing a metal hydride for storing hydrogen in a solid form”, the Applicant submits that the invention as claimed in claim 6 is patentably distinguishable over Fujitani.

None of the other cited references, taken individually or in combination with Fujitani, resolve Fujitani’s deficiencies. Accordingly, the Applicant submits that the rejections under §103 are improper and should be withdrawn. In view of the foregoing, Applicants respectfully request reconsideration and withdrawal of the outstanding rejections under §103.

CONCLUSION

Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.


The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment,

to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

Date August 26, 2003

By 

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